

United States District Court  
Eastern District of Wisconsin

Joseph S. Ferguson  
Plaintiff

V

Ryan E. McDonough

- Plaintiff's brief in opposition to -  
defendants' Summary Judgement Motion  
(Additional)

- Statement of the case -

This is a § 1983 action filed by Joseph Samuel Ferguson, Pro Se, seeking damages & injunctive relief based on the use of excessive force caused by Police Officer (Defendant) Ryan E. McDonough on July 09, 2018.

- Statement of facts -

The Plaintiff's declaration submitted in response to the defendant's motion states that on July 09, 2018, the defendant Ryan E. McDonough tased me when I never resisted arrest, so severely and close that I had to be transported to the hospital so that the prongs could be cut out of my skin. The whole incident is caught on film.

The defendant's affidavits tell a different story, claiming the incident happened differently, stating that I resisted arrest by tensing my arms when the squad car video clearly shows otherwise.

- Argument -

Summary Judgement is to be granted only if the record before the Court Shows " That there is no Genuine issue as to any material facts and that the Moving Party is entitled to a Judgement as a matter of law"

The declarations of the Plaintiff and the defendant are Squarely Contradictory as to What force was used, when, why and how it was used, Allegations in the Plaintiffs declaration Portray a Completely needless use of force against him,

The defendant, By Contrast disputes, The fact that force was used when Unnecessary or in a manner excessive to any need, Is Itself evidence that the defendant acted "maliciously" and "Sadistically" to Cause harm, See. Miller v. Leathers, 913 F. 2d 1085, 1088 (4<sup>th</sup> Cir. 1990); Oliver v. Collins, 914 F. 2d 56, 59 (5<sup>th</sup> Cir. 1990); (excessive force) See. Lawrence v. Lewandowski, No 08. C-108, 2009 U.S. Dist Lexis 90145, 2009 WL 2950611, At \* 5-6 (E.D. Wis. Sept 9, 2009); (4<sup>th</sup> Amendments) See. Graham v. Connor, 490 U.S. 386, 388, 109 S. Ct. 1865, 104 L. Ed. 2d 5443 (1989)

A reasonable Jury could find for the Plaintiff based on the facts Presented in the Plaintiffs declaration and Summary Judgement (opposition) must therefore be denied, See Anderson v. Liberty lobby Inc, 477 U.S. 242, 248, 106 S. Ct. 2505 (1986)

- Conclusion -

For the foregoing reason, The defendant's motion for Summary Judgement Should be denied.

 #532012  
Joseph Ferguson

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Dated: January 23<sup>rd</sup>, 2020